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COUNSEL FOR HIGHLAND CAPITAL MANAGEMENT, L.P., AS SPECIAL SERVICER

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE:

FRE REAL ESTATE, INC.,

DEBTOR.

CASE NO. 11-42042-DML-11

CHAPTER 11

Hearing Date: April 13, 2011

Hearing Time: 1:30 p.m.

Related Docket no. 30

WITNESS AND EXHIBIT LIST

Highland Capital Management, L.P., as Special Servicer (the "Special Servicer"), hereby files this *Witness and Exhibit List* for the hearing scheduled for April 13, 2011, at 1:30 p.m. Central Time (the "Hearing"), to consider the *Debtor's Motion for Authority To Use Cash Collateral* [Docket No. 21] (the "Motion"), and the *Objection of the Special Servicer to the Debtor's Motion for Authority to Use Cash Collateral* [Docket No. 30] (the "Motion")¹:

¹ Capitalized terms used herein shall have the meaning ascribed thereto in either the Motion or the Opposition.

WITNESSES

In addition to those Witnesses listed hereinbelow, the Special Servicer reserves the right to call any witnesses designated by any other party and to call rebuttal witnesses, and designate further rebuttal witnesses.

1. Grant Smith, Senior Vice President, NexBank, SSB
2. Kurt Daum, Vice-President (Special Assets Group), and Counsel, NexBank, SSB
3. Charles G. Dannis, Crosson Dannis, Inc.
4. Richard David Morgan, Vice-President, Debtor
5. Ronald F. Akin, President, Debtor

EXHIBITS

The Special Servicer designates the following exhibits that may be used at the Hearing:

Exhibit	Description	Marked	Offered	Admitted	Date	Disposition After Trial
A	Two Page Organizational Chart Admitted as Exhibit # 191 in connection with the Motions to Dismiss in the First Chapter 11 Case					
B	Ruling Transcript, February 17, 2011, in the First Chapter 11 Case, Docket no. 177					
C	January 2011 Rent Roll					
D	Appraisal, November 17, 2010					
E	Intentionally Omitted					
F	Promissory Note, January 19, 2007					
G	Loan Agreement, January 19, 2007					
H	Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing, January 25, 2007					
I	Guaranty Agreement, January 19, 2007					

Exhibit	Description	Marked	Offered	Admitted	Date	Disposition After Trial
J	Modification Agreement, May 1, 2009					
K	Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing, May 1, 2009					
L	Amended and Restated Modification Agreement, July 6, 2009					
M	Cash Management Agreement, July 6, 2009					
N	Second Modification Agreement, April 1, 2010					
O	Amended and Restated Cash Management Agreement, May 28, 2010					
P	Notice of Default Letter, October 6, 2010					
Q	Notice of Default Letter, October 8, 2010					
R	Plaintiff's First Amended Verified Petition and Request for Temporary Restraining Order and Injunction Filed in the State Court Action					
S	Notice of Default Letter, March 1, 2011					
T	Email Correspondence, February 1, 2011					
U	Transcript of Hearing on 2 nd Day of Motions to Dismiss, February 17, 2011, in the First Chapter 11 Case, filed as Docket no. 176					
V	Oral Deposition of Richard David Morgan, January 27, 2011					
W	Hearing Transcript on Motions to Annul the Automatic Stay, February 28, 2011, in the First Chapter 11 Case, filed as Docket no. 187					
X	Transcript of Hearing on 1 st Day of Motions to Dismiss, February 3, 2011, in the First Chapter 11 Case, filed as Docket no. 142					
Y	Transcript of First Meeting of Creditors (pursuant to 11 U.S.C. § 341(a)), February 8, 2011, in the First Chapter 11 Case					

The Special Servicer reserves the right to offer into evidence any exhibits designated by any other party and designate any other documents necessary for rebuttal depending upon the witnesses and evidence produced by any other party.

The Special Servicer reserves the right to amend or supplement this Witness and Exhibit List at or prior to the Hearing. Further, the Special Servicer reserves the right to (i) introduce exhibits not listed above on rebuttal and during cross-examination and/or for the purposes of impeachment; (ii) use documents not listed herein to refresh witnesses' recollections; and (iii) introduce demonstrative exhibits, which could include the exhibits listed above as well as demonstrative exhibits that incorporate material from the exhibits described above and from other sources.

Dated: April 11, 2011

**COLE, SCHOTZ, MEISEL, FORMAN &
LEONARD, P.A.**

By: /s/ Michael D. Warner
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COUNSEL TO THE SPECIAL SERVICER

CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2011, true and correct copies of the *OBJECTION OF THE SPECIAL SERVICER TO THE DEBTOR'S MOTION FOR AUTHORITY TO USE CASH COLLATERAL* was served on the following by Federal Express overnight delivery in the above case.

Robert A. Simon, Esq.
Barlow Garsek & Simon, LLP
3815 Libson Street
Fort Worth, TX 76107

US Trustee
1100 Commerce Street, Room 976
Dallas, TX 75242-1496

/s/ Emily S. Chou
Emily S. Chou